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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,346	01/02/2002	Michael L. Obradovich	9800.1028	8390

7590 01/13/2003

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EXAMINER

LOUIS JACQUES, JACQUES H

ART UNIT

PAPER NUMBER

3661

DATE MAILED: 01/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/038,346

Applicant(s)

OBRADOVICH, MICHAEL L.

Examiner

Jacques H. Louis-Jacques

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 129-145 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 129-154 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 129-154 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al [5,859,628] in view of Suman et al [6,028,537].

Ross et al '628 discloses an apparatus and method for a personal onboard information system, wherein it is determined whether a vehicle needs a service, e.g., maintenance (column 10), positions or locations of the vehicle and at least one service providers are obtained using GPS (columns 8 and 10), and a service provider closest to the vehicle position is selected (column 10). According to Ross, there is provided a database or memory for storing service provider information, e.g., position (column 8). Furthermore, as explained in column 9, information is communicated via audio media or visual (display). A distance between the vehicle and the selected service provided is determined based on the acquired GPS positions of the vehicle and the service provider, and wherein the service provider is selected based on the determined distance (column 10). More particularly, Ross discloses that the system provides the user with information of the nearest rest area in response to the vehicle's position and direction. Route planning from the vehicle position to the service provider is also provided. As explained in column 10, should vehicle maintenance be required, the location and distance to the nearest repair

facility is determined. It is inherent in the art that in order to determine the distance between the vehicle and the service provider and to determine the closest or nearest service provider to the vehicle, the position of the vehicle has to be compared to the position of the service provider. However, Ross does not particularly disclose at least first and second service provides, wherein the closer service provider is selected when the current vehicle position is within a predetermined distance. Suman et al, on the other hand, disclose a vehicle communication and remote control system providing information to a user. According to Suman et al, as shown in figures 41 and 43 and described in columns 33-36, discloses obtaining data concerning at least two service providers, determining the closer service provider to the current position of the vehicle and selecting the closer service provide when the distance of the vehicle to the service provider is within a predetermined distance. In addition, as described in columns 2-3, Suman et al also, provides route guidance. Thus, it would have been obvious to one skilled in the art at the time of the invention to be motivated to modify the apparatus and method for a personal onboard information system of Ross by incorporating the features from the vehicle communication of Suman et al because such modification will ensure safe and accurate selection of the appropriate service provider.

3. Claims 129-154 are rejected under 35 U.S.C. 102(e) as being anticipated by Blaker et al [5,790,973] in view of Suman et al [6,028,537].

Blaker et al discloses a last exit warning system for a vehicle, wherein the current position of the vehicle and a plurality of service areas locations areas obtained using GPS. According to Blaker et al, the locations of the service areas can be stored in a

memory or database. When it is determined that the vehicle needs service, e.g., refueling, a processor compares the position of the vehicle with the service area locations to determine which one is closer to the vehicle position. See columns 3 and 4. Furthermore, a distance from the vehicle to the service area locations is determined. Based on the determined distance, the closest service area is selected. As described in columns 4 and 5, the information is communicated via an audible or visual message and the position of the vehicle is compared to the positions of the service areas. However, Blaker et al does not particularly disclose at least first and second service providers, wherein the closer service provider is selected when the current vehicle position is within a predetermined distance. Suman et al, on the other hand, disclose a vehicle communication and remote control system providing information to a user. According to Suman et al, as shown in figures 41 and 43 and described in columns 33-36, discloses obtaining data concerning at least two service providers, determining the closer service provider to the current position of the vehicle and selecting the closer service provide when the distance of the vehicle to the service provider is within a predetermined distance. In addition, as described in columns 2-3, Suman et al also, provides route guidance. Thus, it would have been obvious to one skilled in the art at the time of the invention to be motivated to modify the a last exit warning system for a vehicle of Blaker et al by incorporating the features from the vehicle communication of Suman et al because such modification will ensure safe and accurate selection of the appropriate service provider and provide a warning to driver when the closer service provider is near.

*Response to Amendment & Arguments*

4. The amendments along with the arguments filed therewith have been entered and carefully considered by the examiner.

Applicant has amended the claims to recite obtaining data concerning “locations of at least first and second service providers”, “determining, of the at least first and second service providers, a closed service provider to the current location of the vehicle based on the data concerning the current location of the vehicle and the data concerning the locations of the at least first and second service providers”, and selecting the closer service providers “when the closer service provider is within a predetermined distance from the current location of the vehicle.” Emphasis added. Applicant then contended that the prior art references do not satisfy the two conditions of “determining the closest service provider and selecting the closer service provide when the distance between the vehicle and the service provider is within a predetermined distance. Emphasis added.

The examiner agrees with Applicant. However, upon conducting a supplemental (updated) search, the patents to TENDLER (US 2002/0068549) and Suman et al (6028537) have been discovered, which disclose the added claimed limitations.

In particular, Suman et al, as shown in figures 41, 43 and described in columns 33-36, discloses obtaining data concerning at least two service providers, determining the closer service provider to the current position of the vehicle and selecting the closer service provide when the distance of the vehicle to the service provider is within a predetermined distance.

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Thus, in light of this discovery, the claims remain rejected and this office action is made non-final.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US2002/0068549

Tendler

Jun. 2002

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques H. Louis-Jacques whose telephone number is (703) 305-9757. The examiner can normally be reached on M-Th, 7:30 AM - 4:00 PM (Eastern Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on (703) 308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1111.

Jacques H. Louis-Jacques  
Primary Examiner  
Art Unit 3661

*Jacques H. Louis-Jacques*  
JACQUES H. LOUIS-JACQUES  
PRIMARY EXAMINER

/jlj  
January 7, 2003